

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE DE JESUS GRULLON,

Plaintiffs,

-v-

CITIGROUP – EXECUTIVE PLANNING CENTER,

Defendant.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: _____

Case No. 07-CV-3224 (KMK)

ORDER

KENNETH M. KARAS, District Judge:

Plaintiff Jose de Jesus Grullon filed this employment discrimination action against Defendant Citigroup – Executive Planning Center (“Citigroup”). The Complaint alleges that Citigroup discriminated against Plaintiff on the basis of Plaintiff’s race and religion in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”). The Complaint further alleges that Citigroup failed to accommodate Plaintiff’s various disabilities, including “asthma, strong headaches, acute pain in back and chest, [and] serious skin conditions,” in violation of the Americans with Disabilities Act of 1990 (“ADA”).

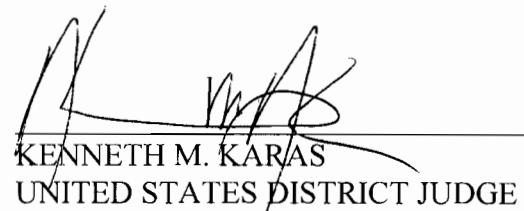
On November 16, 2007, Citibank filed a motion to dismiss on grounds of untimeliness, arguing that Plaintiff failed to file an EEOC “Charge of Discrimination” within 300 days of the last alleged discriminatory act detailed in his Complaint. *See 42 U.S.C. § 2000e-5(e)(1); 29 U.S.C. § 626(d)(2); see also Hill v. Citibank Corp.*, 312 F. Supp. 2d 464, 472 (S.D.N.Y. 2004). In support of its Motion, Defendant observes that the EEOC “Charge of Discrimination” form included with Plaintiff’s Complaint was filed on January 9, 2007 – over 345 days after the last alleged discriminatory act in Plaintiff’s Complaint. Although Plaintiff’s Complaint alleges that

he filed an earlier "Charge of Discrimination" with the EEOC on or about July 14, 2006, the Complaint does not provide any documentation of such a charge.

Plaintiff's response to Citibank's Motion to Dismiss was due on December 17, 2007, well over three months ago. To date, Plaintiff has failed to respond. In light of the foregoing, the Court ORDERS Plaintiff to respond to Citibank's Motion to Dismiss within 45 days or risk dismissal of his Complaint on grounds of untimeliness and/or for failure to prosecute.

SO ORDERED.

Dated: April 1, 2008
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE